

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 09/24/09 have been fully considered but they are not persuasive.

On pages 12-13, applicant argues that the indication in Broadus is a ratio of the elapsed time to the running time, and not the fraction of the remaining duration relative to a total duration.

In response, it is noted that an *indication* of the fraction of the elapsed duration relative to a total duration (see Broadus at Fig. 5 and column 7, lines 28-38 and column 9, lines 62-67) is also an *indication* of the fraction of the remaining duration relative to the total duration. A bar graph, or pie chart or percentage indicating the elapsed duration vs. the total duration indicates the remaining duration, as both elements are shown relative to the total. For example, in Fig. 5, a small box is shown on "Live with Willie Nelson" indicating a numerical elapsed percentage (44%) and showing the box partially filled to represent the elapsed duration. The unfilled portion is representative of the fraction of the program remaining. Fig. 5 shows an example of a pie chart which indicates the elapsed portion in black, **and** the remaining portion in white. Thus, an *indication* of a fraction of the remaining duration relative to the total duration is clearly shown.

Further, any ordered list "in accordance" with the elapsed duration would also clearly be "in accordance" with the remaining duration. For example, any list sorting the

"elapsed duration" from largest to smallest is also sorting the "remaining duration" from smallest to largest. Therefore, applicant's arguments are not convincing.

Applicant's arguments regarding new claims 20 and 21 are moot in view of the new grounds of rejection.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 and 6-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broadus (7,203,952) (of record) in view of Lemmons et al. (Lemmons) (US 2001/0013126 A1) (of record).

As to claim 1, Broadus discloses a method of providing a selection list of content items (Fig. 5-6; column 7, line 65-column 8, line 9), the method comprising the acts of:

receiving a plurality of content items from at least one content source (column 6, lines 9-16);

determining a content item duration indication for each of the plurality of content items, wherein the content item indication is related to a duration of each content item (elapsed duration, remaining duration and total duration; column 7, lines 28-64).

While Broadus discloses presenting a content item list as the selection list to a user (Fig. 5-6; column 7, line 65-column 8, line 15), wherein the content item duration indication comprises an indication of a fraction of a remaining duration of each content item relative to a total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67), he fails to specifically disclose determining an ordered content item list by ordering the plurality of content items in accordance with the fraction and presenting the ordered content item list.

In an analogous art, Lemmons discloses a method of providing a selection list of content items (Fig. 7; paragraph 74), which will determine an ordered content item list (sorting the programs; paragraph 76, 80-82) by ordering the plurality of content items in response to a time attribute (paragraphs 82-85) and present the ordered content item list (Fig. 7; paragraphs 80-85) for the typical benefit of allowing users to more easily locate programs of interest (paragraph 1).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broadus's system to include determining an ordered content item list by ordering the plurality of content items in response to the content item duration indication of each content item and presenting the ordered content item list, as taught by combination with Lemmons, for the typical benefit of allowing a user to more easily locate programs of interest.

As to claim 2, Broadus and Lemmons disclose wherein the content item duration indication is determined in response to the total duration of each content item (see Broadus at column 7, lines 28-38).

As to claim 3, Broadus and Lemmons disclose wherein the content item duration indication is determined in response to a remaining duration of each content item (see Broadus at column 7, lines 53-64).

As to claim 6, Broadus and Lemmons disclose wherein the content item duration indication is determined in response to a received duration of each content item (see Broadus at column 7, lines 53-64).

As to claim 7, Broadus and Lemmons disclose wherein the content item duration indication is determined in response to a presented duration of each content item relative to the total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67).

As to claim 8, Broadus and Lemmons disclose wherein the content item duration indication is comprises an indication of a fraction of the presented duration of each content item with respect to the total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67).

As to claim 9, Broadus and Lemmons disclose determining a second content item duration indication for each of the plurality of content items (elapsed duration, remaining duration, total duration; see Broadus at Fig. 5; column 7, lines 53-64); the second content item duration indication being different from the fraction of a remaining duration and comprising the total duration of each content item; see Broadus at Fig. 5; column 7, lines 53-64); and

wherein the step of determining an ordered content item list comprises ordering the plurality of content items (see Lemmons at Fig. 7; paragraphs 80-85) in response to the second content item duration indication of each content item (see Broadus at Fig. 5; column 7, lines 53-64) in response to a user preference (user selection of a particular sort option; see Lemmons at Fig. 7, paragraphs 80-85).

As to claim 10, Broadus and Lemmons disclose wherein the user preference is determined in response to a user input (user selection of a particular sort option; see Lemmons at Fig. 7, paragraphs 80-85).

As to claim 11, Broadus and Lemmons disclose wherein a single user activation causes the user preference to switch between being associated with the content item duration indication and being associated with the second content item duration indication (user selection of another sort option; see Lemmons at Fig. 7, paragraphs 80-85).

As to claim 12, Broadus and Lemmons disclose determining the user preference in response to at least one previous user preference input (defined by previous user search selections; see Lemmons at Fig. 7, paragraphs 82).

As to claim 13, Broadus and Lemmons disclose  
determining a preferred user preference for different operating conditions (preferred default selection; see Lemmons at paragraphs 78 and 82);

determining a current operating condition (desired operation, such as search or sort; see Lemmons at paragraph 78 and paragraph 80);

setting the user preference as the preferred user preference for the current operating condition (see Lemmons at paragraphs 78 and 82).

As to claim 14, Broadus and Lemmons disclose wherein the current operating condition is determined in response to at least a content item content characteristic (as different content searches would have different available sort selections; see Lemmons at paragraph 82).

As to claim 15, Broadus and Lemmons disclose wherein the plurality of content items include at least one content item from the group of video sources and audio sources (see Broadus at column 3, line 59-column 4, line 16).

As to claim 16, Broadus and Lemmons disclose wherein the plurality of content items is received from a plurality of content sources (see Broadus at column 3, line 59-column 4, line 16).

As to claim 17, Broadus and Lemmons disclose a computer program enabling a method to be carried out (see Broadus at column 5, lines 37-46) according to claim 1 (see the rejection of claim 1 above).

As to claim 18, Broadus discloses an apparatus for providing a selection list of content items (STB, 102; Fig. 5-6; column 7, line 65-column 8, line 9), the apparatus comprising:

- a content receiver (302, column 4, lines 55-65) for receiving a plurality of content items from at least one content source (column 6, lines 9-16);

- a duration processor (312, column 6, lines 24-35) for determining a content item duration indication for each of the plurality of content items, wherein the content item duration indication is related to a duration of each content item (elapsed duration, remaining duration and total duration; column 7, lines 28-64).

While Broadus discloses a processor for controlling all of the software components of the system (column 6, lines 24-35) and a user interface for presenting a content item list as the selection list to a user (Fig. 5-6; column 7, line 65-column 8, line 15), wherein the content item duration indication comprises an indication of a fraction of a remaining duration of each content item relative to a total duration of each content

item (remaining program vs. total duration; see Broadus at Fig. 5; column 7, lines 28-38 and column 9, lines 62-67), he fails to specifically disclose determining an ordered content item list by ordering the plurality of content items in accordance with the fraction and presenting the ordered content item list.

In an analogous art, Lemmons discloses a method of providing a selection list of content items (Fig. 7; paragraph 74), which will determine an ordered content item list (sorting the programs; paragraph 76, 80-82) by ordering the plurality of content items in response to a time attribute (paragraphs 82-85) and present the ordered content item list (Fig. 7; paragraphs 80-85) for the typical benefit of allowing users to more easily locate programs of interest (paragraph 1).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broadus's system to include determining an ordered content item list by ordering the plurality of content items in response to the content item duration indication of each content item and presenting the ordered content item list, as taught by combination with Lemmons, for the typical benefit of allowing a user to more easily locate programs of interest.

4. Claims 1-3, 6-11 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broadus in view of Kaminski et al. (Kaminski) (US 2002/0199185 A1) (of record).

As to claim 1, Broadus discloses a method of providing a selection list of content items (Fig. 5-6; column 7, line 65-column 8, line 9), the method comprising the acts of:



receiving a plurality of content items from at least one content source (column 6, lines 9-16);

determining a content item duration indication for each of the plurality of content items, wherein the content item indication is related to a duration of each content item (elapsed duration, remaining duration and total duration; column 7, lines 28-64).

While Broadus discloses presenting a content item list as the selection list to a user (Fig. 5-6; column 7, line 65-column 8, line 15), wherein the content item duration indication comprises an indication of a fraction of the remaining duration of each content item relative to a total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67), he fails to specifically disclose determining an ordered content item list by ordering the plurality of content items in response to the content item duration indication of each content item and presenting the ordered content item list.

In an analogous art, Kaminski discloses a method of providing a selection list of content items (Fig. 14; paragraph 92-94), which will determine an ordered content item list (sorting the programs; Fig. 14; paragraph 92-94) by ordering the plurality of content items in response to a duration indication of the content item (Fig. 14; paragraph 92-94) and present the ordered content item list (Fig. 14; paragraphs 92-94) for the typical benefit of allowing users to more easily locate programs of interest, by listing them in the specific order desired by the viewer (paragraphs 92-94).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broadus's system to include determining an ordered

content item list by ordering the plurality of content items in response to the content item duration indication of each content item and presenting the ordered content item list, as taught by combination with Kaminski, for the typical benefit of allowing a user to more easily locate programs of interest.

As to claim 2, Broadus and Kaminski disclose wherein the content item duration indication is determined in response to a total duration of each content item (see Broadus at column 7, lines 28-38).

As to claim 3, Broadus and Kaminski disclose wherein the content item duration indication is determined in response to a remaining duration of each content item (see Broadus at column 7, lines 53-64).

As to claim 4, Broadus and Kaminski disclose wherein the content item duration indication is determined in response to a remaining duration of each content item relative to a total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67).

As to claim 6, Broadus and Kaminski disclose wherein the content item duration indication is determined in response to a received duration of each content item (see Broadus at column 7, lines 53-64).

As to claim 7, Broadus and Kaminski disclose wherein the content item duration indication is determined in response to a presented duration of each content item relative to a total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67).

As to claim 8, Broadus and Kaminski disclose wherein the content item duration indication is comprises an indication of a fraction of a presented duration of each content item with respect to the total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67).

As to claim 9, Broadus and Kaminski disclose determining a second content item duration indication for each of the plurality of content items (see Broadus at column 7, lines 53-64); the second content item duration indication being different from the fraction (see Broadus at column 7, lines 53-64); and

wherein the step of determining an ordered content item list comprises ordering the plurality of content items (see Kaminski at Fig. 14; paragraphs 92-94) in response to the second content item duration indication of each content item (see Broadus at column 7, lines 53-64) in response to a user preference (user selection of a particular sort option; see Kaminski at Fig. 14, paragraphs 92-94).

As to claim 10, Broadus and Kaminski disclose wherein the user preference is determined in response to a user input (user selection of a particular sort option; see Kaminski at Fig. 14, paragraphs 92-94).

As to claim 11, Broadus and Kaminski disclose wherein a single user activation causes the user preference to switch between being associated with the content item duration indication and being associated with the second content item duration indication (user selection of another sort option; see Kaminski at Fig. 14, paragraphs 92-94).

As to claim 15, Broadus and Kaminski disclose wherein the plurality of content items include at least one content item from the group of video sources and audio sources (see Broadus at column 3, line 59-column 4, line 16).

As to claim 16, Broadus and Kaminski disclose wherein the plurality of content items is received from a plurality of content sources (see Broadus at column 3, line 59-column 4, line 16).

As to claim 17, Broadus and Kaminski disclose a computer program enabling a method to be carried out (see Broadus at column 5, lines 37-46) according to claim 1 (see the rejection of claim 1 above).

As to claim 18, Broadus discloses an apparatus for providing a selection list of content items (STB, 102; Fig. 5-6; column 7, line 65-column 8, line 9), the apparatus comprising:

a content receiver (302, column 4, lines 55-65) for receiving a plurality of content items from at least one content source (column 6, lines 9-16);

a duration processor (312, column 6, lines 24-35) for determining a content item duration indication for each of the plurality of content items, wherein the content item duration indication is related to a duration of each content item (elapsed duration, remaining duration and total duration; column 7, lines 28-64).

While Broadus discloses a processor for controlling all of the software components of the system (column 6, lines 24-35) and a user interface for presenting a content item list as the selection list to a user (Fig. 5-6; column 7, line 65-column 8, line 15), wherein the content item duration indication comprises an indication of a fraction of the remaining duration of each content item relative to a total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67), he fails to specifically disclose determining an ordered content item list by ordering the plurality of content items in response to the content item duration indication of each content item and presenting the ordered content item list.

In an analogous art, Kaminski discloses a method of providing a selection list of content items (Fig. 14; paragraph 92-94), which will determine an ordered content item list (sorting the programs; Fig. 14; paragraph 92-94) by ordering the plurality of content items in response to a duration indication of the content item (Fig. 14; paragraph 92-94)

and present the ordered content item list (Fig. 14; paragraphs 92-94) for the typical benefit of allowing users to more easily locate programs of interest, by listing them in the specific order desired by the viewer (paragraphs 92-94).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broadus's system to include determining an ordered content item list by ordering the plurality of content items in response to the content item duration indication of each content item and presenting the ordered content item list, as taught by combination with Kaminski, for the typical benefit of allowing a user to more easily locate programs of interest.

5. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broadus and Kaminski and further in view of Lemmons.

As to claim 12, while Broadus and Kaminski disclose determining the user preference they fail to specifically disclose determining the user preference in response to at least one previous user preference input.

In an analogous art, Lemmons discloses a method of providing a selection list of content items (Fig. 7; paragraph 74), which will determine an ordered content item list (sorting the programs; paragraph 76, 80-82) by ordering the plurality of content items in response to a time attribute (paragraphs 82-85) and present the ordered content item list (Fig. 7; paragraphs 80-85) which will determine a user preference in response to at least one previous user preference input (defined by previous user search selections; see Lemmons at Fig. 7, paragraphs 78 and 82) for the typical benefit of providing a

more user friendly system which is automatically customized based upon the users preferences (paragraph 1, 78, 82).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broadus and Kaminski's system to include determining the user preference in response to at least one previous user preference input, as taught in combination with Lemmons, for the typical benefit of providing a more user friendly system which is automatically customized based upon the users preferences.

As to claim 13, while Broadus and Kaminski disclose determining the user preference, they fail to specifically disclose

- determining a preferred user preference for different operating conditions;

- determining a current operating condition;

- setting the user preference as the preferred user preference for the current operating condition.

In an analogous art, Lemmons discloses a method of providing a selection list of content items (Fig. 7; paragraph 74), which will determine an ordered content item list (sorting the programs; paragraph 76, 80-82) by ordering the plurality of content items in response to a time attribute (paragraphs 82-85) and present the ordered content item list (Fig. 7; paragraphs 80-85) which will determine a preferred user preference for different operating conditions (preferred default selection; see Lemmons at paragraphs 78 and 82), determine a current operating condition (desired operation, such as search or sort; see Lemmons at paragraph 78 and paragraph 80) and set the user preference

as the preferred user preference for the current operating condition (see Lemmons at paragraphs 78 and 82) for the typical benefit of providing a more user friendly system which is automatically customized based upon the users preferences (paragraph 1, 78, 82).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broadus and Kaminski's system to include determining a preferred user preference for different operating conditions, determining a current operating condition, and setting the user preference as the preferred user preference for the current operating condition, as taught in combination with Lemmons, for the typical benefit of providing a more user friendly system which is automatically customized based upon the users preferences.

As to claim 14, Broadus, Kaminski and Lemmons disclose wherein the current operating condition is determined in response to at least a content item content characteristic (as different content searches would have different available sort selections; see Lemmons at paragraph 82).

6. Claims 1-3, 6-11 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broadus (7,203,952) (of record) in view of Daily et al. (Daily) (US 2004/0123320 A1).

As to claim 1, Broadus discloses a method of providing a selection list of content items (Fig. 5-6; column 7, line 65-column 8, line 9), the method comprising the acts of:



receiving a plurality of content items from at least one content source (column 6, lines 9-16);

determining a content item duration indication for each of the plurality of content items, wherein the content item indication is related to a duration of each content item (elapsed duration, remaining duration and total duration; column 7, lines 28-64).

While Broadus discloses presenting a content item list as the selection list to a user (Fig. 5-6; column 7, line 65-column 8, line 15), wherein the content item duration indication comprises an indication of a fraction of a remaining duration of each content item relative to a total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67), he fails to specifically disclose determining an ordered content item list by ordering the plurality of content items in accordance with the fraction and presenting the ordered content item list.

In an analogous art, Daily discloses a method of providing a selection list of content items (paragraph 26), which will determine an ordered content item list (sorting the programs; 62) by ordering the plurality of content items based upon the duration of the programs (program length; paragraph 62) for the typical benefit of allowing users to easily browse and locate programs of interest (paragraph 62).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broadus's system to include determining an ordered content item list by ordering the plurality of content items in response to the content item duration indication of each content item and presenting the ordered content item list, as

taught by combination with Daily, for the typical benefit of allowing users to easily browse and locate programs of interest.

As to claim 2, Broadus and Daily disclose wherein the content item duration indication is determined in response to the total duration of each content item (see Broadus at column 7, lines 28-38).

As to claim 3, Broadus and Daily disclose wherein the content item duration indication is determined in response to a remaining duration of each content item (see Broadus at column 7, lines 53-64).

As to claim 6, Broadus and Daily disclose wherein the content item duration indication is determined in response to a received duration of each content item (see Broadus at column 7, lines 53-64).

As to claim 7, Broadus and Daily disclose wherein the content item duration indication is determined in response to a presented duration of each content item relative to the total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67).

As to claim 8, Broadus and Daily disclose wherein the content item duration indication is comprises an indication of a fraction of the presented duration of each

content item with respect to the total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67).

As to claim 9, Broadus and Daily disclose determining a second content item duration indication for each of the plurality of content items (see Broadus at column 7, lines 53-64); the second content item duration indication being different from the fraction (see Broadus at column 7, lines 53-64); and

wherein the step of determining an ordered content item list comprises ordering the plurality of content items (see Daily at paragraph 62) in response to the second content item duration indication of each content item (see Broadus at column 7, lines 53-64) in response to a user preference (see Daily at paragraph 62).

As to claim 10, Broadus and Daily disclose wherein the user preference is determined in response to a user input (see Daily at paragraph 61-62).

As to claim 11, Broadus and Daily disclose wherein a single user activation causes the user preference to switch between being associated with the content item duration indication and being associated with the second content item duration indication (user selection of another sort option; see Daily at paragraph 61-62).

As to claim 15, Broadus and Daily disclose wherein the plurality of content items include at least one content item from the group of video sources and audio sources (see Broadus at column 3, line 59-column 4, line 16).

As to claim 16, Broadus and Daily disclose wherein the plurality of content items is received from a plurality of content sources (see Broadus at column 3, line 59-column 4, line 16).

As to claim 17, Broadus and Daily disclose a computer program enabling a method to be carried out (see Broadus at column 5, lines 37-46) according to claim 1 (see the rejection of claim 1 above).

As to claim 18, Broadus discloses an apparatus for providing a selection list of content items (STB, 102; Fig. 5-6; column 7, line 65-column 8, line 9), the apparatus comprising:

a content receiver (302, column 4, lines 55-65) for receiving a plurality of content items from at least one content source (column 6, lines 9-16);

a duration processor (312, column 6, lines 24-35) for determining a content item duration indication for each of the plurality of content items, wherein the content item duration indication is related to a duration of each content item (elapsed duration, remaining duration and total duration; column 7, lines 28-64).

While Broadus discloses a processor for controlling all of the software components of the system (column 6, lines 24-35) and a user interface for presenting a content item list as the selection list to a user (Fig. 5-6; column 7, line 65-column 8, line 15), wherein the content item duration indication comprises an indication of a fraction of a remaining duration of each content item relative to a total duration of each content item (remaining program vs. total duration; see Broadus at column 7, lines 28-38 and column 9, lines 62-67), he fails to specifically disclose determining an ordered content item list by ordering the plurality of content items in accordance with the fraction and presenting the ordered content item list.

In an analogous art, Daily discloses a method of providing a selection list of content items (paragraph 26), which will determine an ordered content item list (sorting the programs; 62) by ordering the plurality of content items based upon the duration of the programs (program length; paragraph 62) for the typical benefit of allowing users to easily browse and locate programs of interest (paragraph 62).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broadus's system to include determining an ordered content item list by ordering the plurality of content items in response to the content item duration indication of each content item and presenting the ordered content item list, as taught by combination with Daily, for the typical benefit of allowing users to easily browse and locate programs of interest.

7. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broadus and Daily and further in view of Lemmons.

As to claim 12, while Broadus and Daily disclose determining the user preference they fail to specifically disclose determining the user preference in response to at least one previous user preference input.

In an analogous art, Lemmons discloses a method of providing a selection list of content items (Fig. 7; paragraph 74), which will determine an ordered content item list (sorting the programs; paragraph 76, 80-82) by ordering the plurality of content items in response to a time attribute (paragraphs 82-85) and present the ordered content item list (Fig. 7; paragraphs 80-85) which will determine a user preference in response to at least one previous user preference input (defined by previous user search selections; see Lemmons at Fig. 7, paragraphs 78 and 82) for the typical benefit of providing a more user friendly system which is automatically customized based upon the users preferences (paragraph 1, 78, 82).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broadus and Daily's system to include determining the user preference in response to at least one previous user preference input, as taught in combination with Lemmons, for the typical benefit of providing a more user friendly system which is automatically customized based upon the users preferences.

As to claim 13, while Broadus and Daily disclose determining the user preference, they fail to specifically disclose

determining a preferred user preference for different operating conditions;  
determining a current operating condition;  
setting the user preference as the preferred user preference for the current operating condition.

In an analogous art, Lemmons discloses a method of providing a selection list of content items (Fig. 7; paragraph 74), which will determine an ordered content item list (sorting the programs; paragraph 76, 80-82) by ordering the plurality of content items in response to a time attribute (paragraphs 82-85) and present the ordered content item list (Fig. 7; paragraphs 80-85) which will determine a preferred user preference for different operating conditions (preferred default selection; see Lemmons at paragraphs 78 and 82), determine a current operating condition (desired operation, such as search or sort; see Lemmons at paragraph 78 and paragraph 80) and set the user preference as the preferred user preference for the current operating condition (see Lemmons at paragraphs 78 and 82) for the typical benefit of providing a more user friendly system which is automatically customized based upon the users preferences (paragraph 1, 78, 82).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broadus and Daily's system to include determining a preferred user preference for different operating conditions, determining a current operating condition, and setting the user preference as the preferred user preference for the current operating condition, as taught in combination with Lemmons, for the typical

benefit of providing a more user friendly system which is automatically customized based upon the users preferences.

As to claim 14, Broadus, Daily and Lemmons disclose wherein the current operating condition is determined in response to at least a content item content characteristic (as different content searches would have different available sort selections; see Lemmons at paragraph 82).

8. Claims 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broadus and Daily and further in view of Kapner, III et al. (Kapner) (7,596,797).

As to claim 20, while Broadus and Daily disclose ordering the content items according to a user preference, they fail to specifically disclose determining a user preference that corresponds to a current operating condition.

In an analogous art, Kapner discloses a method of providing a selection list of content items (Fig. 1; paragraph 74), which will determine a user preference that corresponds to a current operating condition and customize the content list according to the user preference (column 6, line 60-column 7, line 31) for the typical benefit of providing a content list that is more convenient to the user by presenting the content most likely to be desired (column 7, lines 1-31).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broadus and Daily's system to include determining a user preference that corresponds to a current operating condition, as taught in



combination with Kapner, for the typical benefit of providing a content list that is more convenient to the user by presenting the content most likely to be desired.

As to claim 21, Broadus, Daily and Kapner disclose wherein the current operating condition includes a time of day (see Kapner at column 7, lines 1-31).

9. Claims 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broadus and Kaminski and further in view of Kapner, III et al. (Kapner) (7,596,797).

As to claim 20, while Broadus and Kaminski disclose ordering the content items according to a user preference, they fail to specifically disclose determining a user preference that corresponds to a current operating condition.

In an analogous art, Kapner discloses a method of providing a selection list of content items (Fig. 1; paragraph 74), which will determine a user preference that corresponds to a current operating condition and customize the content list according to the user preference (column 6, line 60-column 7, line 31) for the typical benefit of providing a content list that is more convenient to the user by presenting the content most likely to be desired (column 7, lines 1-31).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broadus and Kaminski's system to include determining a user preference that corresponds to a current operating condition, as taught in

combination with Kapner, for the typical benefit of providing a content list that is more convenient to the user by presenting the content most likely to be desired.

As to claim 21, Broadus, Kaminski and Kapner disclose wherein the current operating condition includes a time of day (see Kapner at column 7, lines 1-31).

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information

and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. ( ) \_\_\_\_\_ - \_\_\_\_\_ on \_\_\_\_\_.  
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Registration Number: \_\_\_\_\_

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES SHELEHEDA whose telephone number is

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(571)272-7357. The examiner can normally be reached on Monday - Friday, 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Sheleheda/  
Primary Examiner, Art Unit 2424

JS